

Message Text

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ACTION EA-09

INFO OCT-01 ISO-00 AID-05 CIAE-00 COME-00 EB-08 FRB-03
INR-07 NSAE-00 USIA-06 TRSE-00 XMB-02 OPIC-03 SP-02
LAB-04 SIL-01 OMB-01 L-03 H-01 NSC-05 SS-15 STR-04
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TO SECSTATE WASHDC 6396
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E.O. 11652: N/A
TAGS: EINV, MY
SUBJECT: NEGOTIATIONS ON INDUSTRIAL COORDINATION ACT RESUME

1. SUMMARY: AFTER TWO MONTH RECESS WHILE GOM RE-THOUGHT ITS POSITION RE INDUSTRIAL COORDINATION ACT (ICA) NEGOTIATIONS BETWEEN PRIVATE SECTOR AND GOVERNMENT HAVE RESUMED. ACCORDING TO PRESS REPORTS (CONFIRMED BY PRIVATE SECTOR SOURCES) GOM HAS OFFERED TO REMOVE OR LIBERALIZE SOME OF THE TECHNICAL CONDITIONS THAT CAUSE INDUSTRY THE MOST PROBLEMS (ESPECIALLY THE PROBLEM OF APPROVAL OF EACH PRODUCT TO BE MANUFACTURED). GOM HAS CAUSED ADDITIONAL DIFFICULTIES, HOWEVER, BY PROPOSING TO CHANGE BASIS UPON WHICH EXEMPTION FROM EQUITY RESTRUCTURING REQUIREMENT IS BASED FROM SHAREHOLDER'S FUND TO FIXED INVESTMENT. INDUSTRY REPRESENTATIVES NOW PREPARING COUNTEROFFERS ON THIS QUESTION AS WELL AS POWERS GRANTED GOM UNDER TERMS OF ICA AND FURTHER RELAXATION OF CONDITIONS TO BE IMPOSED IN OBTAINING LICENSE. SITUATION IS AGAIN MARKED BY RAPID MOVEMENT AND JOCKEYING FOR POSITION. IN BACKGROUND IS NECESSITY TO AMEND ICA DURING MARCH SESSION OF PARLIAMENT BEFORE MAY 1 DEADLINE FOR SUBMISSION OF APPLICATION FOR LICENSES ARRIVES.

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EMBASSY EXPECTS SITUATION WILL BECOME CLEARER IN NEXT FEW WEEKS. END SUMMARY.

2. AFTER A ROUGHLY TWO MONTHS' RECESS WHILE GOM RECONSIDERED ITS POSITION REGARDING CONTROVERSIAL INDUSTRIAL COORDINATION ACT (ICA), NEGOTIATIONS WITH PRIVATE SECTOR MANUFACTURING ASSOCIATIONS HAVE RESUMED. A

SERIES OF MEETINGS ARE BEING HELD WITH THE MINISTER OF TRADE AND INDUSTRY IN ATTEMPT TO HAMMER OUT AGREEMENT. SITUATION IS FLUID WITH BOTH SIDES JOCKEYING FOR POSITION AND FINAL OUTCOME WILL ONLY BECOME CLEAR OVER NEXT FEW WEEKS.

3. SOME LIGHT HAS BEEN SHED ON GOM OPENING POSITION BY MEANS OF A LEAK TO NEW STRAITS TIMES NEWSPAPER WHICH REPORTED WHAT WAS ALLEGED TO BE THE GOM CONCESSIONS. INDUSTRY SOURCES HAVE ALL DENIED LEAKING INFO BUT HAVE CONFIRMED THAT, WITH ONE NOTABLE EXCEPTION, REPORT ACCURATELY SUMMARIZES GOM'S OPENING OFFER.

4. THE GOM HAS PROPOSED THE FOLLOWING CHANGES: A) DELETION OF THE REQUIREMENTS THAT THE MINISTRY OF TRADE AND INDUSTRY (MTI) APPROVE PRICE CHANGES, THAT A CERTAIN FIXED AMOUNT OF PRODUCTION BE EXPORTED AND THAT NEW MACHINERY IMPORTS REQUIRE MTI APPROVAL (USED MACHINERY IMPORTS WILL STILL REQUIRE APPROVAL); AND B) RATHER THAN APPROVING A SINGLE PRODUCT, MTI WILL APPROVE A RANGE OF RELATED PRODUCTS. THUS INCREASING MANUFACTURERS' FLEXIBILITY.

5. ARTICLE ALSO REPORTED THAT MTI PREPARED TO RAISE EXEMPTION LEVEL FOR THOSE FIRMS REQUIRED TO RESTRUCTURE FROM PRESENT M\$250,000 TO M\$500,000. ACCORDING TO PRIVATE SECTOR SOURCES, PRESS REPORT IS INACCURATE AND MISLEADING. PRIVATE SECTOR HAS REQUESTED THAT EXEMPTION LEVEL OF M\$250,000 OF SHAREHOLDERS' FUND (A MARKET BASKET MEASUREMENT WHICH INCLUDES PAID-UP CAPITAL, ETC.) BE LIMITED OFFICIAL USE

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RAISED TO M\$500,000. MTI HAS COUNTER-OFFERED TO MAKE EXEMPTION LEVEL M\$500,000 BUT TO MEASURE THAT ON BASIS OF FIXED INVESTMENT. PRIVATE SECTOR SEES THIS AS STEP BACKWARD SINCE IN MOST CASES FIXED INVESTMENT IS CONSIDERABLY HIGHER THAN SHAREHOLDERS' FUND. IN ONE EXAMPLE, THAT OF A LARGE U.S. ELECTRONICS COMPANY OPERATING IN MALAYSIA, THE FIXED INVESTMENT IS IN EXCESS OF M\$500,000 BUT THE SHAREHOLDERS' FUND IS LESS THAN M\$250,000. INDUSTRY SOURCES CLAIM THAT THIS CASE IS NOT UNUSUAL.

6. INDUSTRY SOURCES WILL MEET WITH MTI MINISTER AGAIN ON MARCH 7 TO PRESENT THEIR COUNTEROFFERS. AMONG POINTS THEY PLAN TO ADDRESS ARE QUESTIONS OF EXEMPTION LIMITS, CREATION OF SOME CURBS ON WIDE-RANGING POWERS ICA GRANTS MTI AND FURTHER RELAXATION OF CONDITIONS TO BE IMPOSED ON LICENSE.

7. COMMENT: WITH THE GOM HAVING RE-THOUGHT ITS POSITION AND THE RE-OPENING OF NEGOTIATIONS WITH THE PRIVATE SECTOR,

THE LONG SAGA OF THE ICA HAS AGAIN ENTERED A PERIOD OF
RAPID MOVEMENT. BOTH SIDES ARE NOW BUSY PRESENTING
COUNTEROFFERS AND THE FINAL OUTCOME IS NOT AT ALL CLEAR.
LOOMING OVER NEGOTIATIONS IS MAY 1 DEADLINE FOR SUBMISSION
OF APPLICATIONS FOR MANUFACTURING LICENSES AND FACT THAT,
AT PRESENT TIME, IF ANY CHANGES ARE TO BE INCORPORATED
INTO ICA, THEY WILL HAVE TO BE AGREED TO DURING NEXT
SESSION OF PARLIAMENT WHICH IS SCHEDULED TO BEGIN ON MARCH 21.
WE EXPECT THAT THE SITUATION WILL CLARIFY ITSELF IN
NEXT FEW WEEKS.
UNDERHILL

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